IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11764 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RABARI LAXMAN KALA MORI

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR HH PATEL AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/02/2001

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. The petitioner was detained as a bootlegger under the order of the District Magistrate, Porbandar dated 19.9.2000 and he is presently at Nadiad District Prison,

Nadiad.

#. Challenging this order manifold contentions are raised by the learned counsel for the petitioner but as this petition deserves to be allowed only on one contention it is not necessary to give details of all these contentions, discuss and decide.

#. It is not in dispute that none of the respondents has filed reply to the Special Civil Application.

#. In para 13 of the Special Civil Application the petitioner grievanced that the copy of the vital documents viz. statements of witnesses recorded under Section 161 of the Cr.P.C. in the criminal complaint which are made basis for detention of the petitioner were not supplied to him and as a result of which he has been deprived of his valuable right of making effective representation against the detention order as guaranteed to him under Article 22(5) of the Constitution of India.

#. I have given my thoughtful consideration to the submissions made by the learned counsel for the petitioner.

#. In the representation filed by the petitioner against the detention order, I find that this demand of the copies of the documents has been made by the petitioner therein. It is a clear case that despite of making demand of copies of the documents which are certainly vital and relevant to the matter the same were not supplied to the petitioner and the petitioner is deprived of his valuable right to make effective representation as guaranteed to him under Article 22(5) of the Constitution of India.

In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 19.9.2000 is quashed and set aside. The petitioner Rabari Laxman Kala Mori, the detenu, at present in Nadiad District Prison, Nadiad, be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. As the respondents fairly conceded the position, no order as to costs.

(S.K.Keshote, J.)

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